

TO: Honorable Anthony J. Scirica, Chair
Standing Committee on Rules of Practice
and Procedure

FROM: Honorable A. Thomas Small, Chair
Advisory Committee on Bankruptcy Rules

DATE: May 27, 2003

RE: Report of the Advisory Committee on Bankruptcy
Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on April 3-4, 2003, in Longboat Key, Florida. The Advisory Committee considered public comments regarding a proposed amendment to Bankruptcy Rule 9014 that was published in August 2002. The Advisory Committee received only four comments on the proposed amendment to the Rule. Since no person who submitted a written comment requested to appear at the public hearing scheduled for January 24, 2003, the hearing was canceled. The Advisory

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Committee also considered technical amendments to Bankruptcy Rules 1011 and 2002(j) as well as a new Official Form for the submission of a debtor's social security number as required by amendments to Bankruptcy Rules 1007 and 2002 that will become effective on December 1, 2003.

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The Advisory Committee considered the written comments on the proposed amendment to Bankruptcy Rule 9014, and approved the proposal and will present it to the Standing Committee at its June 2003 meeting for final approval and transmission to the Judicial Conference. The amendment to Bankruptcy Rule 9014 is set out in Part II A of this Report.

The amendments to Bankruptcy Rules 1011 and 2002(j) are technical and are submitted to the Standing Committee without prior publication and comment. The amendment to Rule 1011 simply conforms a cross reference in that rule to reflect a recent amendment to another Bankruptcy Rule. The amendment to Rule 2002(j) changes the address for mailing notices to the Internal Revenue Service because of a change in the structure of the Service. A new Official Form 21 is proposed to implement the restrictions on the publication of a debtor's social security number. The amendments to Bankruptcy Rules 1011 and 2002(j) and Official Form 21 are set out in Part II B of this Report.

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II Action Items

A. Proposed Amendments to Bankruptcy Rule 9014 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

1. *Public Comment.*

The preliminary draft of the proposed amendment to Bankruptcy Rule 9014 was published for comment in August 2002. A public hearing on the preliminary draft was scheduled for January 24, 2003. There were no requests to appear at the hearing. There were four comments on the proposal, and they are summarized below. The Advisory Committee reviewed these comments and approved the amendment to the rule as published.

2. *Synopsis of Proposed Amendment*

Rule 9014 is amended to limit the applicability of the mandatory disclosure provisions of Rule 26 of the Federal Rules of Civil Procedure made applicable in contested matters in bankruptcy cases by Bankruptcy Rule 7026. Contested matters typically are resolved more quickly than the time that would elapse under the normal application of the mandatory disclosure provisions of Fed. R. Civ. P. 26. Those disclosure requirements continue to apply in adversary proceedings, and the court can order that they apply in a particular contested matter.

*B. Rules and Official Form Amendments Proposed
Without Public Comment.*

The Advisory Committee considered technical amendments to Bankruptcy Rules 1011 and 2002(j). The Advisory Committee approved the amendments to the rules and submits that the nature of these amendments is such that there is no need for publication and comment on the proposed amendments. The Advisory Committee recommends that the Standing Committee approve the amendments for submission to the Judicial Conference.

The Advisory Committee also considered a new Official Form 21. This form implements the amendment to Rule 1007(f) that becomes effective on December 1, 2003, in the absence of Congressional action. The form provides the mechanism for the debtor to submit a social security number to the court so that creditors and other parties in interest can identify the debtor while maintaining the debtor's privacy. The Advisory Committee recommends that the Standing Committee approve the Official Form for submission to the Judicial Conference with an effective date of December 1, 2003.

*1. Synopsis of Proposed Rules Amendments and New
Official Form:*

- (a) Rule 1011 is amended to delete a cross reference to Rule 1004(b). The cross reference should be to Rule 1004 because that rule was amended recently such that the rule no longer includes any subdivisions.

- (b) Rule 2002(j) is amended to reflect the restructuring of the Internal Revenue Service. The Service no longer includes a District Director, so the rule is amended to provide that notices should be mailed to the address set out by the Service in the register maintained by the clerk of the Bankruptcy Court.
- (c) Official Form 21 is a new form that a debtor must submit to the court setting out the debtor's social security number. The Form implements the recently approved amendments to Bankruptcy Rule 1007 adopted to further the Judicial Conference's privacy protection policy.

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